

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

***Criminal Appeal No. 717-SB of 1999
Date of Decision: June 30,2010***

Ranjit Kaur

.....Appellant

Versus

State of Punjab

.....Respondent

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.Bipan Ghai, Senior Advocate with
Mr.Sandeep Gahlawat, Advocate for the appellant.
Mr.Arshwinder Singh, Deputy Advocate General,Punjab
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Sabina, J.

Accused -Ranjit Kaur was convicted under Section 304 Part I of the Indian Penal Code (for short 'IPC') by the Sessions Judge, Ferozepur vide judgment dated 20.7.1999. Vide order of even date, the Sessions Judge sentenced the accused to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5000/-. Hence, the present appeal by the accused-appellant.

Prosecution case, as noticed by the trial Court in para No. 2 of its judgment, is reproduced herein below:-

“2. In nut-shell, the story of the prosecution case is that Bhupinder Kaur deceased was present in matrimonial home one month prior

to 3.7.96. Her mother-in-law Kartar Kaur, sister-in-law Ranjit Kaur (accused) and her husband Hukam Singh were also present there. At about 9 P.M. Ranjit Kaur accused sprinkled kerosene oil on Bhupinder Kaur and set her on fire. However, her husband Hukam Singh put water on Bhupinder Kaur and extinguished the fire. Bhupinder Kaur was then admitted in a private hospital at Zira. After about 10 days, mother of Bhupinder Kaur took her to Faridkot and got treated her there. On 2.7.1996, Bhupinder Kaur was admitted in Guru Gobind Singh Medical College Faridkot. On that day, on receipt of a wireless message, ASI Tarlok Singh along with other police officials went to Police Station, City Faridkot and obtained ruqa Ex.P6. On 3.7.1996, he moved an application Ex.P7 before SDM Faridkot, who deputed the Tehsildar-cum-Executive Magistrate for recording the statement of Bhupinder Kaur. ASI Tarlok Singh also moved an application to get the opinion of the doctor as to whether the patient was fit to make statement or not. Dr.Rajinder Singh vide his endorsement Ex.P2/A declared Bhupinder Kaur fit to make statement. Accordingly, Sh.Piare Lal Tehsildar recorded the statement of Bhupinder Kaur which is Ex.PB. ASI Tarlok Singh his endorsement Ex.P8/A and sent the same to the police station, where on its basis formal FIR Ex.P8/D was recorded under Section 307 IPC. He also visited the place of occurrence and prepared the rough site plan Ex.P11 with correct marginal notes. Thereafter, on 1.8.96 Bhupinder Kaur died and the offence under Section 302 IPC was added. After the completion of the

investigation, the challan was put in the court of Illaqa Magistrate, who committed the case to the court of Sessions vide order dated 10.10.96, as indicated above.”

Learned counsel for the appellant has submitted that the appellant has been falsely involved in this case as the deceased was having a grudge against the appellant. The occurrence in this case had allegedly taken place on 1.7.1996. The alleged dying declaration of the deceased was recorded after the deceased was tutored by her family members.

Learned State counsel, on the other hand, has submitted that the dying declaration of the deceased had been recorded by the Tehsildar-cum- Executive Magistrate, Faridkot, who was an independent person and the same has been rightly believed by the trial Court.

In the present case, Bhupinder Kaur has died due to burn injuries suffered by her.

PW5 Dr.Gursewak Singh deposed that on 26.5.1996 at about 11.00 P.M., patient Sukhjit Kaur was admitted in his clinic by Panchayat of village Chola and her husband Hukam Singh. He treated the patient upto 11.6.1996. Patient was having burn injuries. Parents of the patient took her from his clinic on 11.6.1996 for better treatment.

PW4 Piare Lal has deposed that on 3.7.1996, while he was posted as Tehsildar-cum-Executive Magistrate, Faridkot, he recorded the statement of Bhupinder Kaur on orders received by him from the Sub Divisional Magistrate. He had gone to the hospital to record the statement of Bhupinder Kaur and after she was declared fit by the Doctor to make her statement and on his satisfaction that Bhupinder Kaur was free to make the statement without any pressure, he recorded her statement. Bhupinder Kaur

stated that a month ago, she was sleeping in her house at about 9.00 p.m. Her mother-in-law Kartar Kaur and her sister-in-law (Jathani), Ranjit Kaur, appellant and her husband Hukam Singh were present in the house. Ranjit Kaur poured kerosene oil on her and set her on fire. Her husband extinguished the fire. Her mother had brought her to her house about ten days ago and got her admitted in a private hospital. She had also remained in hospital in Guru Gobind Singh Medical College Faridkot. She further stated that her husband was not on speaking terms with her for the last one month and the appellant used to quarrel with her.

PW1 Dr.Rajinder Singh Khurmi deposed that Bhupinder Kaur was admitted in Guru Gobind Singh Medical College Faridkot on 1.7.1996 as a case of burn injuries. She was given treatment in Unit No.1 and was discharged on request on 22.7.1996. Bhupinder Kaur was declared fit to make her statement vide Exhibit 2/A.

PW6 Surjit Kaur, mother of the deceased, deposed that her daughter was married with Hukam Singh and they were blessed with a daughter. Her daughter was admitted in a private hospital on account of burn injuries. Her daughter had not disclosed anything to her as to how she has caught fire either at Zira or Faridkot. Her daughter had also told her that she had not disclosed anything to any one due to fear of her in-laws that wife of elder brother of her husband had poured kerosene oil on her and set her on fire.

PW8 Amarjit Kaur had corroborated the statement of PW6.

Appellant, when examined under Section 313 Cr.P.C. took up the following pleas:-

“I am innocent. About 2-3 months prior to the occurrence my

daughter was married in which Hukam Singh husband of the deceased gave a Television as gift on which deceased was annoyed. I and my family members are living separately. On the day of occurrence to pressurize Hukam Singh, deceased Bhupinder Kaur set on fire herself and the fire was extinguished by the people. She was got treated from Zira where she improved a lot. Then her mother took her to her parental house and got treated from physician (Hakeem) which developed septicaemia and Bhupinder Kaur died later on. False case has been registered against him.”

Thus, admittedly the deceased had suffered burn injuries in the house of her in-laws. The question that requires consideration is as to whether the deceased had set herself on fire or whether she had been set on fire by the appellant.

The appellant has taken the plea that the deceased had set herself on fire to pressurize her husband. In support of her plea, appellant examined DW1 Jaswant Singh. However, the plea taken by the appellant and the testimony of DW1 Jaswant Singh, fail to inspire confidence. PW4 Piare Lal is an independent witness. He being a responsible officer had recorded the statement of the deceased. The deceased has categorically stated that the appellant had poured kerosene oil on her and set her on fire. The deceased has not involved any other family member of her in-laws side in this case. From the dying declaration suffered by the deceased, it is evident that she was not having cordial relations with her husband yet she has not named him as a culprit. In these circumstances, the dying declaration suffered by the deceased, inspires confidence. It appears that

the deceased did not make the statement initially qua the involvement of the appellant with a view to save her marriage. However, when condition of the deceased deteriorated, she thought it appropriate to tell the truth and suffered a dying declaration before an independent person. As per the post-mortem report, the deceased had died on 1.8.1996 at 2.20 p.m. on account of the burn injuries suffered by her. The deceased had lived for about a month after she had suffered the dying declaration and had not changed the same. This also makes the dying declaration believable. In these circumstances, the learned trial Court had rightly believed the dying declaration suffered by the deceased. Hence, no ground for interference is made out.

Dismissed.

(Sabina)
Judge

June 30, 2010

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